IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.401 OF 1997

The Commissioner of Income-tax,
Nasik .. Applicant.

V/s.

Girna S.S.K. Limited .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.
Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 12TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following question for the opinion of this Court, reading as under :

Whether on the facts and in the circumstances of the case, the ITAT relying on the decision of Special Bench of ITAT in the case of Shri Chatrapati S.S.K. Ltd. (198 ITR 78 - AT) was right in deleting the following additions by holding that the various funds/deposits collected by the assessee society out of the sugarcane purchase price payable to the cane growers are not trading receipts of the assessee ?

1.	Non-refundable deposits	Rs. 1,12,549
2.	Interest on N.R.D.	Rs. 11,62,107
3.	C.M.'s relief fund	Rs. 1,41,986
4.	Hutment fund	Rs. 5,67,744
5.	Cane Development fund	Rs. 5,67,744

2. In so far as first four items viz.Non-refundable deposits, Interest on N.R.D., Chief Minister's Relief Fund and Hutment funds are

concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as Cane Development Fund is concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issue stands remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)